

NEW YORK STATE HEARING AID DISPENSING ADVISORY BOARD
MEETING SUMMARY

December 10, 2019

The meeting was held at the Department of State, 99 Washington Avenue, Albany; 123 William Street, NYC; and, 65 Court Street, Buffalo.

I. INTRODUCTIONS, ROLL CALL AND QUORUM ANNOUNCEMENT

The meeting was called to order at 10:38 a.m. J. DeLollo took roll call and declared that there was a quorum present. She welcomed new ex-officio member, Jason Kramer. The official attendance was as follows:

BOARD MEMBERS

Peter Fisher
Anne Orsene
Florence Butler
Eric Freeman
Jerry Bergman
Anthony Macera
Zhanneta Shapiro

DEPARTMENT OF STATE STAFF

David Mossberg
Mary Jo Moore
Ernita Gantt
Denise Tidings
Marcy Rose
Alison Lacy

Excused:

Ana Hae-Ok Kim

EX-OFFICIO BOARD MEMBERS

Jodi DeLollo, representing
Rossano Rosado, Secretary of State,
Board Chair
Jason Kramer, representing NYSED
Commissioner

VISITORS

Barbara Ahern, Hearing Health Care Alliance of NY
(HHCANY)
Fred Goossen, HHCANY, International Hearing Society
(IHS)
Joelle Foskett – Office of Senator Harckham

II. SUBCOMMITTEE AND DEPARTMENT REPORTS

- A. Approval of Meeting Summaries for 3/25/19 and 9/9/19 – J. DeLollo asked for a motion to approve the meeting summaries from the March 25, 2019, and September 9, 2019, advisory board meetings. A. Orsene made a motion to approve; the motion was seconded by Anthony Macera. All were in favor, and both summaries were approved.
- B. Enforcement Report – E. Gantt provided an Enforcement Unit report stating that there were two complaints since the September 9 meeting. One involved a concern that the dispenser did not fill out a VA form; the form required a physician's signature, not a dispenser's signature. The other complaint involved the allegation of forged documentation; this complaint was unsubstantiated. Both complaints files have been closed and no violations were issued. She mentioned that there are currently 13 pending cases.

E. Freeman mentioned a new program which helps veterans with hearing aid expenses. He asked if under this new program, perhaps NYS-licensing hearing aid dispensers could provide a signature on the VA form to assist veterans with the process. D. Mossberg mentioned that if it is a federal program, then it would be subject to federal requirements; he offered to look into the program and report back to the board with his findings at their next meeting.

- C. Processing Report – J. DeLollo mentioned that the 12/3/2018 & 12/2/2019 Hearing Aid Dispensing licensing statistics were provided in the folders; she mentioned that the number of businesses and licensees are broken down by county and license type (class). She also mentioned that the Processing Unit has tried to track license application rejections in an effort to improve the application rejection rate. She explained that most rejections are due to incomplete application submissions (proof of education, etc.), and that application rejections lead to a delay in processing and licensure.
- D. Education/Examination Report – A. Lacy stated that the Bureau of Educational Standards has begun auditing hearing aid dispensing renewal applications. She continued by stating that the renewal applications that do not indicate an approved course code(s), or do not appear to include telecoil, infection control and NYS and federal law, are not processed and are sent to the Bureau for an educational compliance audit. She mentioned that a renewal license will only be granted when satisfactory proof of education is provided. To date, 36 licensees have been audited and 24 have complied; of the 12 that have not yet complied, most are within the timeframe to respond and only 2 were found to be missing 1 or more of the required hours. A. Lacy also mentioned that the course availability appears to be adequate and has not been an issued raised by licensees.
- A. Lacy presented Hearing Aid Dispensing examination statistics for the months of September through November 2019.
- E. Telecoil/ALD Study Subcommittee – D. Mossberg reported that the Telecoil/ALD Study Subcommittee met on November 6 to discuss potential ways to help ensure that hearing aid dispensers are providing consumers with information on telecoils and other assistive listening devices as required by statute. The subcommittee discussed the possibility of making legal requirements to hold dispensers accountable; this would require enacting legislation and, therefore, some this proposal was tabled. He explained that these were some of the other proposals that the subcommittee suggested: 1) partner with the Consumer Protection Board (CPB) to conduct outreach initiatives to help achieve consumer awareness; 2) reach out to the Division of Human Rights (DHR) to see if they would promote looping throughout the state; and 3) update renewal applications to include a statement reminding dispensers of their obligation to inform consumers about telecoil and ALD options (to also include a reminder about their CE requirement). D. Mossberg explained that we would determine if we still see identifiable consumer issues after implementing some of these strategies.

Eric Freeman stated that he believes about 70 percent of providers are discussing telecoils with consumers; he feels that we still need to do more. Furthermore, he stated that if consumer complaints are not received by DOS/Licensing, then there isn't a need for enforcement. He feels that complaints should be handled by consumer advocacy groups to hold dispensers accountable for doing their jobs. He also mentioned that he is encouraging dispensers to identify venues in their area that need to be looped; some of the public and private venues were questioning if they would receive a tax break or if there are agencies that would aid in offsetting the costs of looping.

Jerry Bergman agreed with Eric stating that this is a consumer advocacy and human rights issue. He also pointed out ADA's assistive listening requirement, which he stated could not be achieved without a neck loop and telecoil. He offered to work (through HLA) on consumer education and the documentation of instances where dispensers did not instruct consumers or activate their telecoil.

Peter Fisher mentioned that while he is a proponent for telecoils and loops, he believes that this only affects about one percent of the time a hearing aid is in use. Jerry Bergman stated that he felt it was a critical one percent and a human rights issue, as hearing aid users should be able to hear in venues such as places of worship, the theater, etc.

III. NEW BUSINESS

- A. Educating Consumers in NYS About OTC Hearing Aids Entering the Market in 2020 – A. Orsene reported on updates to the OTC Act of 2017. She reported that she and fellow board member Z. Shapiro attended the convention in Washington, DC, and received updated information. She mentioned that this is an important issue that will affect dispensing professionals and consumers. The OTC Act of 2017 requires FDA to create and regulate a category of OTC hearing aids for adults with perceived mild to moderate hearing loss, ensuring that they meet the same high standards for safety, consumer labeling, and manufacturing protection that all devices must meet. The legislation requires the FDA to establish these categories within 3 years of the passage of the legislation or August 18, 2020. She mentioned that the FDA was supposed to issue the first set of proposed rules in November 19 and finalize a rule within 180 days of the close of the comment period. The proposed regulations have been delayed and may be released in the first quarter of 2020. She also mentioned that different state laws are complicating the process; the federal law will supersede any state legislation. A. Orsene suggested that a subcommittee be formed to begin discussing and preparing for this change. J. DeLollo provided approval to form the subcommittee; some board members volunteered to be on the subcommittee, some felt we should wait to see the proposed regulations before beginning discussions. Z. Shapiro felt that it was a good idea to meet to at least discuss ways that we can educate the consumers on this issue.

J. Bergman mentioned the passage of a closed caption law that will go into effect on July 1, 2020. He encouraged the HADAB to work with CPB and DHR to promote awareness of the new requirement that TV monitors have captions turned on in places of public accommodation.

IV. 2020 ADVISORY BOARD MEETINGS

- A. Tentatively Scheduled Meeting Dates/Times - D. Tidings provided tentative meeting dates/times for 2020.
- B. Agenda Items – D. Tidings (Board Coordinator) stated that members are encouraged to submit agenda items to her for consideration.
- C. Contact Information - D. Tidings mentioned that she would follow-up with an email and would also be asking members to verify their contact information.

V. PUBLIC COMMENT

Fred Goossen expressed his concerns about Over-the-Counter (OTC) hearing aids; he believes they may not work well and that medical issues could go undetected (he feels that while the 'Red Flags' are still in place, they are not being enforced). He suggested that the Consumer Protection Board be involved in ensuring that consumers are made aware of potential issues of purchasing OTC hearing aids.

Fred Goossen suggested that DOS/Licensing provide additional lines on the HAD renewal form for applicants to list their continuing education (CE) courses; he also mentioned that we should consider having the applicant submit their certificates of completion for the courses taken. He feels that incorporating these ideas may help cut down on the need to audit renewals.

VI. ADJOURNMENT

Florence Butler made a motion to adjourn the meeting. Eric Freeman seconded the motion. The meeting was adjourned at 11:40 a.m.